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Letters

(Email this author)

Equal Protection

Why does Voting Rights Act preclearance have congressmen from Georgia and Texas "crying wolf"? Well, there's an old Southern saying: "The dog that howls the most is the one who's been hit." Both Georgia and Texas could serve as "poster children" to dramatize the continuing need for Section 5 of the Voting Rights Act.

Consider Prairie View, Texas, home to historically black Prairie View A&M University. In 2003, the Waller County district attorney said he would prosecute any voter who did not meet his residency definition, declaring that students had no "lawful rights to a special definition of 'domicile' for voting purposes." Ten years' imprisonment and a $10,000 fine were the penalties. The Justice Department and state officials objected, saying student voters should bear no greater burden than any other Texans. Incidentally, Prairie View students had been indicted by the county before, in 1992, for "illegally voting," but the charges were dropped and the students' records were expunged. Ultimately, the NAACP was informed, and a suit was filed demanding that students be allowed to vote in the 2004 election "free from the threat of improper prosecution." All charges were quickly dropped.

Consider Bibb County, Ga., partly in the district of Republican Rep. Lynn Westmoreland until this year. The county's black population had been growing for years. When government officials reapportioned the school districts in 1982, they made sure that black residents would form a majority in only two, instead of three, districts. That assured black citizens would have only two votes on the school board and would never effectively challenge the four remaining board members elected from newly formed majority-white districts. The Justice Department objected. Without preclearance, a quick and cost-effective process, violations have to be litigated and potentially discriminatory law will remain in effect until the litigation is settled.

There are other stories just like these in the nine states covered by Section 5, as well as in portions of seven others, including New York. The disenfranchised may be Asian, Latino, or Native American, but

the intent is the same. These stories are not from history books but are contemporary examples of more than 1,000 objections the Justice Department has filed against discriminatory voting plans since the last reauthorization in 1982. Notably, opponents of the act rarely confront this evidence. They are quick to sling fighting words, as Stuart Taylor did in *National Journal* in May ["More Racial Gerrymanders," 5/13/06, p. 17]. Words like "demagoguery ... racialist allies ... racial gerrymandering ... racial-identity politics ... punitive [government] oversight ... and safe seats." Why this torrent of accusations? Because anything less reveals easily the obvious lack of proof.

By contrast, all the expiring sections of the Voting Rights Act have long enjoyed bipartisan support, even under the most conservative administrations, because the evidence is too overwhelming to responsibly ignore. Presidents Nixon, Ford, Reagan, and Bush Sr. could hardly be described as kowtowed by the civil-rights lobby, and they all determined that those sections should remain law. I invite any examination of the record painstakingly compiled by the House Judiciary Committee under the leadership of Chairman **Jim Sensenbrenner**, R-Wis., and Mel Watt, D-N.C. Reps. **Charlie Norwood**, R-Ga., **Steve King**, R-Iowa, Westmoreland, and others had a chance to participate in the hearing process, and experts at the hearings represented those members' views.

But that testimony did not effectively address the weight of the evidence.

Why not make Section 5 nationwide? Because the Justice Department would spend all of its time reviewing voting changes from hundreds of jurisdictions with no discrimination problem; plus, such an expansion would probably be unconstitutional. Do we need a new bailout formula? No, there's already one in the act, and 11 jurisdictions in Virginia have used it successfully. It's not expensive, either. It costs only about $5,000 on average, but it does require states to prove they no longer discriminate. Why not update "the trigger" and use the last three national elections to determine Section 5 coverage? Because that formula would place only Hawaii under supervision -- and it has no record of discrimination. Frankly, these are all backdoor attempts to gut Section 5, the heart of the Voting Rights Act.

Why do American citizens need language assistance? Because the complex ballot initiatives of today might be more easily explained to them in their native tongue. Seventy percent of all the people who need language assistance are not immigrants, but native-born Americans -- Alaskans, Puerto Ricans, Asian-Americans, and Native Americans. Surely we are not suggesting that Native Americans, the only original

citizens of this land, do not deserve the assistance they may need to participate in the democratic process?

I have said it before, and I will say it again: America has changed; it has evolved from a nation that once used brute force -- police dogs, fire hoses, and state troopers -- to stop citizens from voting. But you will never find one word from me that suggests voting discrimination has ceased. The tools of discrimination have also changed, but they have the same chilling effect on democracy. A great orator once said, "Eternal vigilance is the price of liberty," and the reauthorization of Sections 5 and 203 are still required topreserve our freedom. Ultimately, legislation is not meant to ease the discomfort of violators; it should be a response to the evidence. And it should reflect a commitment to equal protection under the law.

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